

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of

MD Docket No. 98-200

Assessment and Collection of Regulatory
Fees for Fiscal Year 1999

COMMENTS OF THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

The Personal Communications Industry Association¹ ("PCIA") hereby submits these comments in response the *Notice of Inquiry*² ("NOI") issued in the above-captioned docket.

Specifically, PCIA addresses issues related to "new services" fee categories and costs covered by regulatory fees.

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¹ PCIA is an international trade association established to represent the interests of the commercial and private mobile radio service communications industries and the fixed broadband wireless industry. PCIA's Federation of Councils includes: the Paging and Messaging Alliance, the PCS Alliance, the Site Owners and Managers Association, the Association of Wireless Communications Engineers and Technicians, the Private Systems Users Alliance, the Mobile Wireless Communications Alliance, and the Wireless Broadband Alliance. As the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 MHz and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of FCC licensees.

² *Assessment and Collection of Regulatory Fees for Fiscal Year 1999*, FCC 98-298, MD Docket No. 98-200 (Dec. 4, 1998) ("NOI").

PCIA respectfully suggests that as it decides how to account for regulatory costs associated with new services, the Commission should ensure that its policies do not result in cross-carrier or cross-service subsidies. PCIA also requests that the Commission delineate the regulatory costs recouped via regulatory fees by detailing the resources used and actions taken for feeable versus non-feeable activities and describing how full-time equivalent ("FTE") employees are used in calculating regulatory fees. In support of its comments, PCIA respectfully demonstrates the following.

I. THE COMMISSION SHOULD ENSURE THAT ANY REGULATORY POLICIES ADOPTED FOR NEW SERVICES NOT CREATE CROSS-CARRIER OR CROSS-SERVICE SUBSIDIES.

The Commission has requested comment on how best to handle cost recovery for regulatory fees associated with new or developmental services.³ This issue was raised by existing GSO licensees claiming that they were unfairly being burdened with the costs associated with new GSO services and that such costs instead should be spread across all regulatory fee payors.⁴ In acting on this issue, the Commission must ensure that any regulatory fee policies adopted for "new services" not create any cross-carrier or cross-service subsidies. Improperly applied fees can significantly affect competition. The Commission's resolution of this issue must ensure maximum fairness for carriers in all regulatory fee categories.

³ *NOI*, ¶¶ 16-17.

⁴ *Id.*

Indeed, as PCIA has enumerated on several occasions,⁵ and the Commission has agreed,⁶ increased competition in the CMRS marketplace warrants reduced regulatory oversight for CMRS services, even forbearance in many instances. Forbearance from regulatory requirements or reduced regulatory obligations for CMRS operators necessarily will result in lower agency costs for regulating these services and, ultimately, should produce decreased regulatory fees for CMRS licensees. In this burgeoning deregulatory environment, PCIA requests that the agency, in revising its regulatory fee policies, ensure that CMRS licensees are not forced to pay regulatory fees that recover costs for activities unrelated to CMRS services.

II. THE COMMISSION SHOULD FURTHER DETAIL ITS REGULATORY COSTS BY CLARIFYING HOW FTE EMPLOYEES ARE USED IN CALCULATING REGULATORY FEES AND DESCRIBING THE RESOURCES UTILIZED FOR FEEABLE ACTIVITIES.

The *NOI* asks about clearer identification of regulatory costs. The dramatic increase in regulatory fees for CMRS services between fiscal year 1997 and 1998 with virtually no Commission explanation or enumeration of the regulatory costs involved necessarily caused PCIA to question the Commission's cost accounting methodology.

In its comments in the FY 1998 NPRM proceeding,⁷ PCIA suggested several ways in which the Commission could further describe and more accurately distinguish its costs. PCIA

⁵ See *Petition for Forbearance For Broadband Personal Communications Services* (filed May 22, 1997).

⁶ See *Forbearance from Applying Provisions of the Communications Act to Wireless Telecommunications Carriers*, FCC 98-134, WT Docket No. 98-100 (July 2, 1998).

⁷ *Comments of the Personal Communications Industry Association, Assessment and Collection of Regulatory Fees for Fiscal Year 1998*, MD Docket No. 98-36 (Apr. 22, 1998) ("PCIA Comments").

reiterates these suggestions herein. First, the agency should clarify how FTE employees are used in calculating regulatory fees. Only FTE employees can be used for fee assessment under the Commission's Rules. The recent significant use of contract personnel by the agency should have decreased the agency's regulatory costs because contract personnel do not receive the same level of health and retirement benefits provided to Commission employees.⁸ Given the dramatic increase in regulatory fees between fiscal year 1997 and 1998 despite this employment situation, PCIA questions the agency's calculation of its regulatory costs. Accordingly, the Commission should specifically demonstrate how it determines the number of FTE employees to be used in its cost accounting system and whether contract employees are used to calculate the number of FTE employees.

Second, the Commission should itemize the resources utilized and actions taken for feeable categories. As an example, the Commission should detail the orders and public notices issued pertaining to CMRS Mobile and CMRS Messaging services and the hours used for policy development and licensing activities. In this manner, affected industry parties can discern whether any non-feeable activities have been lumped with feeable activities, resulting in inappropriately higher regulatory costs for CMRS Services and other fee categories and, ultimately, those that pay these costs.

In addition, PCIA respectfully reiterates its previous suggestion that the Commission provide its employees detailed instructions regarding which activities are feeable.⁹ As discussed in PCIA's Comments, employee instructions should describe thoroughly each feeable activity

⁸ *See id.* at 5-6.

⁹ *See id.* at 7-8.

code, particularly the types of issues that pertain to each activity code. This should significantly lessen potential errors in cost coding for feeable activities and assist the agency in properly distributing its regulatory costs among fee categories.

PCIA welcomes the opportunity to review other recommendations that may be made in this proceeding. In any event, it is essential that the Commission more effectively collect and disseminate data on regulatory feeable activities so that the public and affected carriers can review and evaluate the accuracy of the allocations.

III. CONCLUSION

PCIA respectfully requests that the Commission adopt its foregoing proposals and suggestions. Specifically, PCIA asks the Commission to ensure that any new regulatory policies adopted for “new services” not result in cross-carrier or cross-service subsidization of the fee collections. PCIA also asks the Commission to further describe its regulatory costs associated with feeable activities, namely by detailing how the number of full-time equivalent employees are used to calculate regulatory fees and itemizing the resources used and activities taken for feeable categories. Finally, PCIA requests that the agency provide detailed activity code instructions to its employees to ensure that feeable regulatory costs are coded accurately and distributed properly among fee categories.

Respectfully submitted,

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